



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, बुधवार, 1 जनवरी, 2014/11 पौष, 1935

हिमाचल प्रदेश सरकार

लोक निर्माण विभाग

शुद्धि पत्र

शिमला-2, 31 दिसम्बर, 2013

सं0पी0बी0डब्ल्यू0(बी0)एफ(5)128/2007.—इस विभाग द्वारा भू-अर्जन अधिनियम, 1894 की धारा 4 के अन्तर्गत जारी समसंख्यक अधिसूचना दिनांक 25-11-2013 के अन्तर्गत गांव रटोली, तहसील सरकाघाट, जिला मण्डी, हिमाचल प्रदेश में ऊना-बड़सर-जाहु-कलखर-नेरचौक सड़क के निर्माण हेतु अर्जित की जा रही है भूमि में "खसरा नं0 182/2 तादादी रकबा 0-00-29 हैक्टेयर के स्थान पर खसरा नं0 181/2 रकबा 0-00-29 हैक्टेयर" पढ़ा जाए।

आदेश द्वारा,
हस्ताक्षरित/—
प्रधान सचिव (लोक निर्माण)।

गृह विभाग

अधिसूचना

शिमला-2, 27 दिसम्बर, 2013

संख्या: होम बी(बी) 3-4/95(अग्नि).—हिमाचल प्रदेश की राज्यपाल, भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश, लोक सेवा आयोग के परामर्श से, हिमाचल प्रदेश अग्निशमन सेवाएं विभाग में, **उप अग्निशमन अधिकारी, वर्ग-III** (अराजपत्रित) अलिपिकवर्गीय सेवाएं, के पद के लिए इस अधिसूचना से संलग्न उपाबन्ध-‘क’ के अनुसार भर्ती और प्रोन्नति नियम बनाती हैं, अर्थात् :—

1. **संक्षिप्त नाम और प्रारम्भ.**—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश अग्निशमन सेवाएं विभाग, उप अग्निशमन अधिकारी, वर्ग-III (अराजपत्रित) अलिपिकवर्गीय सेवाएं भर्ती और प्रोन्नति नियम, 2013 है।

(2) ये नियम, राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने की तारीख से प्रवृत्त होंगे।

2. **निरसन और व्यावृत्तियां.**—(1) अधिसूचना संख्या: होम बी(बी) 3-4/95 तारीख 20-9-2002 द्वारा अधिसूचित और समय-समय पर यथासंशोधित हिमाचल प्रदेश अग्निशमन सेवाएं विभाग, उप अग्निशमन अधिकारी वर्ग-III, (अराजपत्रित) भर्ती एवम् प्रोन्नति नियम, 2002 का एतद्वारा निरसन किया जाता है।

(2) ऐसे निरसन के होते हुए भी, उपर्युक्त उप नियम 2(1)के अधीन इस प्रकार निरसित सुसंगत नियमों के अधीन की गई कोई नियुक्ति, बात या कार्यवाही इन नियमों के अधीन विधिमान्य रूप में की गई, समझी जाएगी।

आदेश द्वारा,
हस्ताक्षरित/—
अतिरिक्त मुख्य सचिव (गृह)।

उपाबन्ध-‘क’

हिमाचल प्रदेश अग्निशमन सेवाएं विभाग प्रदेश में उप अग्निशमन अधिकारी, (वर्ग-III अराजपत्रित) पद के लिए भर्ती और प्रोन्नति नियम, 2013

1. **पद का नाम.**—उप अग्निशमन अधिकारी
2. **पदों की संख्या.**—32 (बत्तीस)
3. **वर्गीकरण.**—वर्ग-III (अराजपत्रित) (अलिपिकवर्गीय)
4. **वेतनमान.**—(i) नियमित पदधारियों के लिए वेतनमान:
पे बैंड : 10300-34800 रुपए+3600 रुपए ग्रेड पे

(ii) संविदा पर नियुक्त कर्मचारियों के लिए उपलब्धियां :

₹ 13,900/- स्तंभ संख्या 15-क में दिए गए ब्यौरे के अनुसार।

5. चयन पद अथवा अचयन पद.—अचयन पद।

6. सीधी भर्ती के लिए आयु.—18 से 45 वर्ष :

परन्तु सीधे भर्ती किए जाने वाले व्यक्तियों के लिए ऊपरी आयु सीमा, तदर्थ या संविदा के आधार पर नियुक्त किये गए व्यक्तियों सहित पहले से ही सरकार की सेवा में रत अभ्यर्थियों को लागू नहीं होगी :

परन्तु यह और कि यदि तदर्थ या संविदा के आधार पर नियुक्त किया गया अभ्यर्थी इस रूप में नियुक्ति की तारीख को अधिक आयु का हो गया हो, तो वह तदर्थ या संविदा के आधार पर नियुक्ति के कारण विहित आयु में छूट के लिए पात्र नहीं होगा :

परन्तु यह और कि अनुसूचित जातियों/अनुसूचित जनजातियों तथा अन्य वर्गों के व्यक्तियों के लिए ऊपरी आयु सीमा में उतनी ही छूट दी जा सकेगी, जितनी हिमाचल प्रदेश सरकार के साधारण या विशेष आदेश (आदेशों) के अधीन अनुज्ञेय है :

परन्तु यह और भी कि पब्लिक सैक्टर/निगमों तथा स्वायत्त निकायों के सभी कर्मचारियों को, जो ऐसे पब्लिक सैक्टर निगमों तथा स्वायत्त निकायों के प्रारम्भिक गठन के समय ऐसे पब्लिक सैक्टर, निगमों/स्वायत्त निकायों में आमेसन से पूर्व सरकारी कर्मचारी थे, सीधी भर्ती में आयु सीमा में ऐसी ही रियायत दी जाएगी, जैसी सरकार कर्मचारियों को अनुज्ञेय है, किन्तु इस प्रकार की रियायत पब्लिक सैक्टर निगमों तथा स्वायत्त निकायों के ऐसे कर्मचारिवृन्द को नहीं दी जाएगी, जो पश्चात्पूर्वी ऐसे निगमों/स्वायत्त निकायों द्वारा नियुक्त किए गए थे/किए गए हैं और उन पब्लिक सैक्टर निगमों/स्वायत्त निकायों के प्रारम्भिक गठन के पश्चात् ऐसे निगमों/स्वायत्त निकायों की सेवा में अन्तिम रूप से आमेलित किए गए हैं/किए गए थे :

टिप्पण: (1) सीधी भर्ती के लिए आयु सीमा की गणना उस वर्ष के प्रथम दिवस से की जाएगी, जिसमें पद (पदों) को आमन्त्रित करने के लिए, यथास्थिति, विज्ञापित किया गया है या नियोजनालयों को अधिसूचित किया गया है।

(2) अन्यथा सुअर्हित अभ्यर्थियों की दशा में सीधी भर्ती के लिए आयु सीमा और अनुभव हिमाचल प्रदेश लोक सेवा आयोग के विवेकानुसार शिथिल किया जा सकेगा।

7. सीधे भर्ती किए जाने वाले व्यक्तियों के लिए अपेक्षित न्यूनतम शैक्षिक और अन्य अर्हताएं.—(क) अनिवार्य अर्हताएं : (1) किसी मान्यता प्राप्त बोर्ड/विश्वविद्यालय से 10+2 की परीक्षा या इसके समतुल्य उत्तीर्ण की होनी चाहिए या सेना विशेष प्रमाण—पत्र और राष्ट्रीय अग्निशमन सेवाएं महाविद्यालय नागपुर से सब-अग्निशमन अधिकारी का कोर्स उत्तीर्ण किया हो।

अथवा

फायर इंजिनियर्स संस्थान (भारत), नई दिल्ली से स्नातक की डिग्री।

न्यूनतम शारीरिक मापदण्ड :-

2. न्यूनतम शारीरिक मानदण्ड :-

ऊंचाई— 165 सेंटीमीटर

छाती— 80 सेंटीमीटर बिना फुलाए और 85 सेंटीमीटर फुलाकर

वजन— 52 किलोग्राम

दृष्टि— 6/6 बिना चश्मे के।

3. शारीरिक क्षमता :-

(क) 100 मीटर की दौड़ 15 सैकिण्ड में।

(ख) ऊंची कूद 120 सेंटीमीटर

(ग) लम्बी कूद 3 मीटर, 60 सेंटीमीटर।

(घ) 800 मीटर दौड़ 3 मिनट में।

(ख) **वांछनीय अर्हता** : हिमाचल प्रदेश की रुढ़ियों, रीतियों और बोलियों का ज्ञान और प्रदेश में विद्यमान विशिष्ट दशाओं में नियुक्ति के लिए उपयुक्तता।

8. सीधे भर्ती किए जाने वाले व्यक्तियों के लिए विहित आयु और शैक्षिक अर्हताएं प्रोन्नत व्यक्तियों की दशा में लागू होंगी या नहीं.—**आयु** : लागू नहीं।

शैक्षिक अर्हता : हां, जैसा स्तम्भ संख्या 11 में विहित किया गया है।

9. **परिवीक्षा की अवधि, यदि कोई हो**.—दो वर्ष, जिसका एक वर्ष से अनधिक ऐसी और अवधि के लिए, विस्तार किया जा सकेगा, जैसा सक्षम प्राधिकारी विशेष परिस्थितियों में और लिखित कारणों से आदेश दे।

10. **भर्ती की पद्धति** : भर्ती सीधी होगी या प्रोन्नति, प्रतिनियुक्ति स्थानान्तरण द्वारा और विभिन्न पद्धतियों द्वारा भरे जाने वाले पदों की प्रतिशतता.—(i) पच्चतर प्रतिशत प्रोन्नति द्वारा

(ii) पच्चीस प्रतिशत सीधी भर्ती द्वारा यथास्थिति नियमित आधार पर या संविदा के आधार पर भर्ती द्वारा। संविदा पर नियुक्त कर्मचारी स्तम्भ 15—क में दी गई उपलब्धियां प्राप्त करेंगे और उक्त स्तम्भ में यथा विनिर्दिष्ट सेवा शर्तों द्वारा विनियमित होंगे।

11. **प्रोन्नित, प्रतिनियुक्ति, स्थानान्तरण की दशा में श्रेणियां ग्रेड, जिनसे प्रोन्नति, प्रतिनियुक्ति, स्थानान्तरण किया जाएगा**.—अग्रसर प्रशामकों में से प्रोन्नति द्वारा जिनका तीन वर्ष का नियमित सेवा या ग्रेड में की गई लगातार तदर्थ सेवा, यदि कोई हो, तीन वर्ष का नियमित सेवाकाल हो, और राष्ट्रीय अग्निशमन महाविद्यालय, नागपुर से उप अग्निशमन अधिकारी पाठ्यक्रम कोर्स उत्तीर्ण किया हो।

परन्तु प्रोन्नति के प्रयोजन के लिए प्रत्येक कर्मचारी को, जनजातीय/दुर्गम क्षेत्रों में पद (पदों) की ऐसे क्षेत्रों में पर्याप्त संख्या की उपलब्धता के अध्यधीन, कम से कम एक कार्यकाल तक सेवा करनी होगी :

परन्तु यह और कि उपर्युक्त परन्तुक (1) उन कर्मचारियों के मामले में लागू नहीं होगा जिनकी अधिवर्षिता के लिए पांच वर्ष या उससे कम की सेवा शेष रही हो :

परन्तु यह और भी कि उन अधिकारियों/कर्मचारियों को, जिन्होंने जनजातीय/दुर्गम क्षेत्र में कम से कम एक कार्यकाल तक सेवा नहीं की है, ऐसे क्षेत्र में उसके अपने संवर्ग (काडर) में सर्वथा वरिष्ठता के अनुसार स्थानान्तरित किया जाएगा।

स्पष्टीकरण—I.—उपर्युक्त परन्तुक के प्रयोजन के लिए जनजातीय/दुर्गम क्षेत्रों में “कार्यकाल” से साधारणतयः तीन वर्ष की अवधि या प्रशासनिक अपेक्षाओं और कर्मचारी द्वारा किए गए कार्य को ध्यान में रखते हुए ऐसे क्षेत्रों में तैनाती की इससे कम अवधि अभिप्रेत होगी।

स्पष्टीकरण—II.—उपर्युक्त परन्तुक के प्रयोजन के लिए जन जातीय/दुर्गम क्षेत्र निम्न प्रकार से होंगे:—

1. जिला लाहौल स्पिति।
2. चम्बा जिला का पांगी और भरमौर उपमण्डल।
3. रोहडू उपमण्डल का डोडरा क्वार क्षेत्र।
4. जिला शिमला की रामपुर तहसील का पन्द्रह बीस परगणा, मुनीष, दरकाली ओर ग्राम पंचायत काशापाट।
5. कुल्लू जिला का पन्द्रह बीस परगणा।
6. कांगड़ा जिला के बैजनाथ उपमण्डल का बड़ा भंगाल क्षेत्र।
7. जिला किन्नौर।

8. सिरमौर जिला में उप तहसील कमरु के काठवाड़ और कोरगा पटवार वृत्त, रेणुकाजी तहसील के भलाड़-भलौना और सांगना पटवार वृत्त और शिलाई तहसील का कोटा पाब पटवार वृत्त।
9. मण्डी जिला में करसोग तहसील का खनोल बगड़ा पटवार वृत्त, बाली चौकी उप तहसील के गढ़ा घुसाई, मठयानी, घनहार, थाची, बग्गी सोमगाड़ और खोलानाल, पद्धर तहसील के झारवाड़, कुटगढ़ ग्रामन, देवगढ़, ट्रैला रोपा, कथोग सिल्ह-भड़वानी, हस्तपुर, घमरेड़ और भटेढ़ पटवार वृत्त, थुनाग तहसील के चियुनी, कालीपार, मानगढ़, थाच बगड़ा, उत्तरी मगरू और दक्षिणी मगरू पटवार वृत्त और सुन्दर नगर तहसील का बटवाड़ा पटवार वृत्त।

(1) प्रोन्नति के सभी मामलों में पद पर नियमित नियुक्ति से पूर्व सम्भरक (पोषक) पद में की गई लगातार तदर्थ सेवा, यदि कोई हो, प्रोन्नति के लिए इन नियमों में यथा विहित सेवाकाल के लिए, इस शर्त के अधीन रहते हुए गणना में ली जाएगी, कि सम्भरक प्रवर्ग में तदर्थ नियुक्ति/प्रोन्नति, भर्ती और प्रोन्नति नियमों के उपबन्धों के अनुसार चयन की उचित स्वीकार्य प्रक्रिया को अपनाने के पश्चात् की गई थी :

परन्तु उन सभी मामलों में, जिनमें कोई कनिष्ठ व्यक्ति सम्भरक पद में अपने कुल सेवाकाल (तदर्थ आधार पर की गई सेवा सहित, जो नियमित सेवा/नियुक्ति के अनुसरण में हों) के आधार पर उपर्युक्त निर्दिष्ट उपबन्धों के कारण विचार किए जाने का पात्र हो जाता है, वहां अपने-अपने प्रवर्ग/पद/कांडर में उससे वरिष्ठ सभी व्यक्ति विचार किए जाने के पात्र समझे जाएंगे और विचार करते समय कनिष्ठ व्यक्ति से ऊपर रखे जाएंगे :

परन्तु यह और कि उन सभी पदधारियों की, जिन पर प्रोन्नति के लिए विचार किया जाना है, कम से कम तीन वर्ष की न्यूनतम अहर्ता सेवा या पद के भर्ती और प्रोन्नति नियमों में विहित सेवा जो भी कम हो, होगी :

परन्तु यह और भी कि जहां कोई व्यक्ति पूर्वगामी परन्तुक की अपेक्षाओं के कारण प्रोन्नति किए जाने सम्बन्धी विचार के लिए अपात्र हो जाता है, वहां उससे कनिष्ठ व्यक्ति भी ऐसी प्रोन्नति के विचार के लिए अपात्र समझा जायेगा/समझे जाएंगे।

स्पष्टीकरण.—(1) अन्तिम परन्तुक के अन्तर्गत कनिष्ठ पदधारी प्रोन्नति के लिए अपात्र नहीं समझा जायेगा यदि वरिष्ठ अपात्र व्यक्ति भूतपूर्व सैनिक है, जिसे डिमोबिलाइज्ड आर्मड फोर्सिस परसोनल (रिजर्वेशन आफ वेकैन्सीज इन हिमाचल स्टेट नान-टैक्निकल सर्विसीज) रूलज, 1972 के नियम 3 के उपबन्धों के अन्तर्गत भर्ती किया गया है और इनके अन्तर्गत वरीयता लाभ दिए गए हों या जिसे एक्स-सर्विस मैन (रिजर्वेशन आफ वेकैन्सीज इन दी हिमाचल प्रदेश टैक्निकल सर्विसीज) रूलज, 1985 के नियम 3 के उपबन्धों के अन्तर्गत भर्ती किया गया हो और इनके अन्तर्गत वरीयता लाभ दिये गए हों।

(2) इसी प्रकार स्थायीकरण के सभी मामलों में ऐसे पद पर नियमित नियुक्ति से पूर्व की सम्भरक पद पर की गई लगातार तदर्थ सेवा, यदि कोई हो, सेवाकाल के लिए गणना में ली जाएगी, यदि तदर्थ नियुक्ति/प्रोन्नति, उचित चयन के पश्चात् और भर्ती और प्रोन्नति नियमों के उपबन्धों के अनुसार की गई थी :

परन्तु की गई उपर्युक्त निर्दिष्ट तदर्थ सेवा को गणना में लेने के पश्चात् जो स्थायीकरण होगा, उसके फलस्वरूप पारस्परिक वरीयता अपरिवर्तित रहेगी।

12. यदि विभागीय प्रोन्नति समिति विद्यमान हो तो उसकी संरचना.—जैसी सरकार द्वारा समय-समय पर गठित की जाए।

13. भर्ती करने में जिन परिस्थितियों में हिमाचल प्रदेश लोक सेवा आयोग से परामर्श किया जाएगा.—जैसा विधि द्वारा अपेक्षित हो।

14. सीधी भर्ती के लिए अनिवार्य अपेक्षा.—किसी सेवा या पद पर नियुक्ति के लिए अभ्यर्थी का भारत का नागरिक होना अनिवार्य है।

15. सीधी भर्ती द्वारा पद पर नियुक्ति के लिए चयन.—सीधी भर्ती के मामले में पद पर नियुक्ति के लिए चयन लिखित परीक्षा और मौखिक परीक्षा जैसाकि, यथास्थिति हिमाचल प्रदेश लोक सेवा आयोग या अन्य भर्ती प्राधिकरण द्वारा संचालित की जाए, जिसका स्तर/पाठ्यक्रम इत्यादि, यथास्थिति, आयोग/अन्य भर्ती प्राधिकरण द्वारा अवधारित किया जाएगा।

15-क संविदा नियुक्ति द्वारा पद पर नियुक्ति के लिए चयन.—इन नियमों में किसी बात के होते हुए भी पद पर संविदा नियुक्तियां, नीचे दिए निबन्धनों और शर्तों के अधीन की जाएंगी:—

(I) **संकल्पना.**—(क) इस पालिसी के अधीन अग्निशमन विभाग, हिमाचल प्रदेश में उप अग्निशमन अधिकारी को संविदा के आधार पर, प्रारम्भ में एक वर्ष के लिए लगाया जाएगा, जिसे वर्षानुवर्ष आधार पर बढ़ाया जा सकेगा:

परन्तु संविदा अवधि में वर्षानुवर्ष आधार पर विस्तारण/नवीकरण के लिए सम्बद्ध विभागाध्यक्ष, यह प्रमाण पत्र जारी करेगा कि संविदा पर नियुक्त व्यक्ति की सेवा ओर आचरण, वर्ष के दौरान संतोषजनक रहा है और केवल तभी उसकी संविदा की अवधि नवीकृत/विस्तारित की जा सकेगी।

(ख) पद का हिमाचल प्रदेश हिमाचल प्रदेश अधीनस्थ चयन बोर्ड, हमीरपुर के कार्यक्षेत्र में आना.—निदेशक, अग्निशमन हिमाचल प्रदेश, रिक्त पदों को संविदा के आधार पर भरने के लिए सरकार का अनुमोदन प्राप्त करने के पश्चात्, अध्यपेक्षा को सम्बद्ध भर्ती अभिकरण अर्थात् हिमाचल प्रदेश अधीनस्थ सेवाएं चयन बोर्ड, हमीरपुर के समक्ष रखेगा।

(ग) चयन, इन नियमों में विहित पात्रता शर्तों के अनुसार किया जाएगा।

(II) **संविदात्मक उपलब्धियां.**—संविदा के आधार पर नियुक्त उप अग्निशमन अधिकारी को 13900/— रुपए की समेकित नियत संविदात्मक रकम (जो पे बैंड का न्यूनतम जमा ग्रेड पे के बराबर होगी) प्रतिमास संदत्त की जाएगी। यदि संविदा में एक वर्ष से अधिक की बढ़ोतरी की जाती है, तो पश्चात्वर्ती वर्ष (वर्षों) के लिए संविदात्मक उपलब्धियों में 420/— रुपए की रकम (पद के पे बैंड का न्यूनतम जमा ग्रेड पे का तीन प्रतिशत) वार्षिक वृद्धि के रूप में अनुज्ञात की जाएगी।

(III) **नियुक्ति/अनुशासन प्राधिकारी.**—निदेशक, अग्निशमन सेवाएं हिमाचल प्रदेश नियुक्ति और अनुशासन प्राधिकारी होगा।

(IV) **चयन प्रक्रिया.**—संविदा नियुक्ति की दशा में पद पर नियुक्ति के लिए चयन, मौखिक परीक्षा के आधार पर किया जाएगा या यदि आवश्यक या समीचीन समझा जाए, तो लिखित परीक्षा या व्यावहारिक परीक्षा के आधार पर किया जाएगा, जिसका स्तर/पाठ्यक्रम इत्यादि सम्बद्ध भर्ती अभिकरण, अर्थात् हिमाचल प्रदेश अधीनस्थ सेवाएं चयन बोर्ड, हमीरपुर द्वारा अवधारित किया जाएगा।

(V) **संविदात्मक नियुक्तियों के लिए चयन समिति.**—जैसी सम्बद्ध भर्ती प्राधिकरण, अर्थात् हिमाचल प्रदेश अधीनस्थ चयन बोर्ड हमीरपुर द्वारा समय-समय पर गठित की जाए।

(VI) **करार.**—अभ्यर्थी को चयन के पश्चात्, इन नियमों से संलग्न उपाबन्ध-‘ख’ के अनुसार करार हस्ताक्षरित करना होगा।

(VII) **निबन्धन और शर्तें.**—(क) संविदा पर नियुक्त व्यक्ति को 13900/— रुपए की नियत संविदात्मक रकम (जो पे बैंड का न्यूनतम जमा ग्रेड पे के बराबर होगी) प्रतिमास संदत्त की जाएगी। संविदा पर नियुक्त व्यक्ति आगे बढ़ाए गए वर्षों के लिए संविदात्मक रकम में 420/— रुपए (पद के पे-बैंड का न्यूनतम जमा ग्रेड पे का तीन प्रतिशत) की वृद्धि का हकदार होगा और अन्य कोई सहबद्ध प्रसुविधाएं, जैसे वरिष्ठ/चयन वेतनमान आदि नहीं दिया जाएगा।

(ख) संविदा पर नियुक्त व्यक्ति की सेवा पूर्णतया अस्थायी आधार पर होगी। यदि संविदा पर नियुक्त व्यक्ति का कार्य/आचरण ठीक नहीं पाया जाता है, तो नियुक्ति समाप्त किए जाने के लिए दायी होगी।

(ग) संविदा पर नियुक्त व्यक्ति एक मास की सेवा पूरी करने के पश्चात्, एक दिन के आकस्मिक अवकाश का हकदार होगा। तथापि, संविदा पर नियुक्त कर्मचारी बारह सप्ताह का प्रसूति अवकाश तथा दस दिन के चिकित्सा अवकाश का हकदार भी होगा/होगी। वह किसी भी प्रकार के अन्य चिकित्सा प्रतिपूर्ति और (एल.टी.सी.) इत्यादि के लिए भी हकदार नहीं होगा/होगी। संविदा पर नियुक्त व्यक्ति को उपरोक्त के सिवाय किसी भी प्रकार का अन्य कोई अवकाश अनुज्ञात नहीं होगा :

परन्तु अनुपभुक्त आकस्मिक अवकाश और चिकित्सा अवकाश एक कलैण्डर वर्ष तक संचित किया जा सकेगा और उसे आगामी कलैण्डर वर्ष के लिए अग्रनीत नहीं किया जाएगा।

(घ) नियंत्रक अधिकारी के अनुमोदन के बिना सेवा से अनधिकृत अनुपस्थिति से स्वतः ही संविदा का पर्यवसान (समापन) हो जाएगा। संविदा पर नियुक्त व्यक्ति कर्तव्य (ड्यूटी) से अनुपस्थिति की अवधि के लिए संविदात्मक रकम का हकदार नहीं होगा।

(ङ) संविदा पर नियुक्त कर्मचारी, जिसने तैनाती के एक स्थान पर तीन वर्ष का कार्यकाल पूर्ण कर लिया है, आवश्यकता के आधार पर स्थानान्तरण हेतु पात्र होगा, जहां भी प्रशासनिक आधार पर ऐसा करना अपेक्षित हो।

(च) चयनित अभ्यर्थी को सरकारी/रजिस्ट्रीकृत चिकित्सा व्यवसायी से अपना आरोग्य प्रमाण-पत्र प्रस्तुत करना होगा। बारह सप्ताह से अधिक की गर्भवती महिला अभ्यर्थी प्रसव होने तक, अस्थायी तौर पर अनुपयुक्त बनी रहेगी। महिला अभ्यर्थियों का किसी प्राधिकृत चिकित्सा अधिकारी/व्यवसायी द्वारा उपयुक्तता के लिए पुनः परीक्षण किया जाएगा।

(छ) संविदा पर नियुक्त व्यक्ति का, यदि अपने पदीय कर्तव्यों के सम्बन्ध में दौरे पर जाना अपेक्षित हो, तो वह उसी दर पर, जैसी नियमित प्रतिस्थानी कर्मचारियों को वेतनमान के न्यूनतम पर लागू है, यात्रा भत्ते/दैनिक भत्ते का हकदार होगा।

(ज) नियमित कर्मचारियों की दशा में यथा लागू सेवा नियमों के उपबन्ध, जैसे एफ.आर.एस.आर. छुट्टी नियम, साधारण भविष्य निधि नियम, पेंशन नियम तथा आचरण नियम आदि संविदा पर नियुक्त व्यक्तियों की दशा में लागू नहीं होंगे। वे इस स्तम्भ में यथावर्णित उपलब्धियों आदि के लिए हकदार होंगे।

16. आरक्षण.—सेवा में नियुक्ति, हिमाचल प्रदेश सरकार द्वारा समय-समय पर अनुसूचित जातियों/अनुसूचित जनजातियों/अन्य पिछड़े वर्गों और अन्य प्रवर्ग के व्यक्तियों के लिए सेवाओं में आरक्षण की बाबत जारी किए गये आदेशों के अधीन होगी।

17. विभागीय परीक्षा.—लागू नहीं।

18. शिथिल करने की शक्ति.—जहां राज्य सरकार की यह राय हो कि ऐसा करना आवश्यक या समीचीन है, वहां वह, कारणों को लिखित में अभिलिखित करके और हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, आदेश द्वारा, इन नियमों के किन्हीं उपबन्धों को किसी वर्ग या व्यक्ति (व्यक्तियों) के प्रवर्ग या पद (पदों) की बाबत, शिथिल कर सकेगी।

उप अग्निशमन अधिकारी व निदेशक, अग्निशमन सेवाएं हिमाचल प्रदेश के माध्यम से निष्पादित की जाने वाली संविदा/करार का प्ररूप

यह करार श्री/श्रीमती-----पुत्र/पुत्री श्री-----
निवासी-----संविदा पर नियुक्त व्यक्ति (जिसे इसमें इसके पश्चात् प्रथम पक्षकार कहा गया है) और हिमाचल प्रदेश की राज्यपाल, के मध्य निदेशक, अग्निशमन सेवाएं विभाग हिमाचल प्रदेश (जिसे इसमें इसके पश्चात् द्वितीय पक्षकार कहा गया है) के माध्यम से आज तारीख ----- को किया गया।

“द्वितीय पक्षकार” ने उपरोक्त ‘प्रथम पक्षकार’ को लगाया है और प्रथम पक्षकार ने उप अग्निशमन अधिकारी के रूप में संविदा के आधार पर निम्नलिखित निबन्धन और शर्तों पर सेवा करने के लिए सहमति दी है :—

1. यह कि प्रथम पक्षकार उप अग्निशमन अधिकारी के रूप में -----से प्रारम्भ होने और----- को समाप्त होने वाले दिन तक, एक वर्ष की अवधि के लिए द्वितीय पक्षकार की सेवा में रहेगा। यह विनिर्दिष्ट रूप से उल्लिखित किया गया है और दोनों पक्षकारों द्वारा करार पाया गया है कि प्रथम पक्षकार की द्वितीय पक्षकार के साथ संविदा, आखिरी कार्य दिवस, अर्थात् ----- दिन को स्वयंमेव ही पर्यवसित (समाप्त) हो जाएगी और सूचना नोटिस आवश्यक नहीं होगा :

परन्तु संविदा अवधि में विस्तारण/नवीकरण के लिए विभागाध्यक्ष, यह प्रमाण पत्र जारी करेगा कि संविदा पर नियुक्त व्यक्ति की सेवा तथा आचरण, वर्ष के दौरान संतोषजनक रहा है और केवल तभी उसकी संविदा की अवधि को नवीकृत/विस्तारित किया जाएगा।

2. प्रथम पक्षकार की संविदात्मक रकम ----- रुपए प्रतिमास होगी।
3. प्रथम पक्षकार की सेवा पूर्णतया अस्थायी आधार पर होगी। यदि संविदा पर नियुक्त व्यक्ति का कार्य/आचरण ठीक नहीं पाया जाता है या यदि नियमित पदधारी उस रिक्ति के विरुद्ध नियुक्त/तैनात कर दिया जाता है, जिसके लिए प्रथम पक्षकार को संविदा पर लगाया गया है, तो नियुक्ति पर्यवसित (समाप्त) की जाने के लिए दायी होगी।
4. संविदा पर नियुक्त उप अग्निशमन अधिकारी एक मास की सेवा पूरी करने के पश्चात् एक दिन के आकस्मिक अवकाश का हकदार होगा। तथापि, संविदा पर नियुक्त कर्मचारी बारह सप्ताह के प्रसूति अवकाश तथा दस दिन के चिकित्सा अवकाश का भी हकदार होगा/होगी। वह चिकित्सा प्रतिपूर्ति और एल0टी0सी0 इत्यादि के लिए भी हकदार नहीं होगा/होगी। संविदा पर नियुक्त उप अग्निशमन अधिकारी को उपरोक्त के सिवाए किसी भी प्रकार का अन्य कोई अवकाश अनुज्ञात नहीं होगा :

परन्तु अनुपभुक्त आकस्मिक अवकाश और चिकित्सा अवकाश को एक कलैण्डर वर्ष तक संचित किया जा सकेगा और उसे आगामी कलैण्डर वर्ष के लिए अग्रणीत नहीं किया जाएगा।

5. नियन्त्रक अधिकारी के अनुमोदन के बिना कर्तव्य से अनधिकृत अनुपस्थिति से स्वतः ही संविदा का पर्यवसान (समापन) हो जाएगा। संविदा पर नियुक्त उप अग्निशमन अधिकारी कर्तव्य (ड्यूटी) से अनुपस्थिति की अवधि के लिए संविदात्मक रकम का हकदार नहीं होगा।

6. संविदा पर नियुक्त कर्मचारी, जिसने तैनाती के एक स्थान पर तीन वर्ष का कार्यकाल पूर्ण कर लिया है, आवश्यकता के आधार पर स्थानान्तरण हेतु पात्र होगा, जहां भी प्रशासनिक आधार पर ऐसा करना अपेक्षित हो ।
7. चयनित अभ्यर्थी को सरकारी/रजिस्ट्रीकृत चिकित्सा व्यवसायी से अपना आरोग्य प्रमाण-पत्र प्रस्तुत करना होगा । महिला अभ्यर्थियों की दशा में, बारह सप्ताह से अधिक की गर्भावस्था, प्रसव होने तक, उसे अस्थायी तौर पर अनुपयुक्त बना देगी । महिला अभ्यर्थियों का किसी सरकारी/रजिस्ट्रीकृत चिकित्सा/व्यवसायी द्वारा उपयुक्तता के लिए पुनः परीक्षण किया जाना चाहिए ।
8. संविदा पर नियुक्त व्यक्ति का यदि अपने पदीय कर्तव्यों के सम्बन्ध में दौरे पर जाना अपेक्षित हो, तो वह उसी दर पर, जैसी नियमित प्रतिस्थानी अधिकारी को वेतनमान के न्यूनतम पर लागू है, यात्रा भत्ते/दैनिक भत्ते का हकदार होगा/होगी ।
9. संविदा पर नियुक्त व्यक्ति(यों) को कर्मचारी सामूहिक बीमा योजना के साथ-साथ ई0पी0एफ0/जी0पी0एफ भी लागू नहीं होगा ।
10. इसके साक्ष्यस्वरूप, प्रथम पक्षकार और द्वितीय पक्षकार ने इसमें सर्वप्रथम उल्लिखित तारीख को अपने-अपने हस्ताक्षर कर दिए हैं ।

साक्षियों की उपस्थिति में :

1. _____
नाम—_____
पता—_____
2. _____
नाम—_____
पता—_____
(प्रथम पक्षकार के हस्ताक्षर)

साक्षियों की उपस्थिति में :

1. _____
नाम—_____
पता—_____
2. _____
नाम—_____
पता—_____
(द्वितीय पक्षकार के हस्ताक्षर)

[Authoritative English text of this Department's Notification No. Home-B(B)3-4/95-Fire dated2013 as required under Clause (3) of Article 348 of the Constitution of India]

HOME DEPARTMENT

NOTIFICATION

Shimla-2, the 27th December, 2013

No. Home-B(B)3-4/95-Fire.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh, in consultation with the Himachal Pradesh Public Service Commission, is pleased to make the Recruitment and Promotion Rules for the post of **Sub Fire Officer, Class-III** (Non-Gazetted) Non-Ministerial Services in the Department of Fire services, Himachal Pradesh, as per Annexure—"A" attached to this notification, namely:—

1. Short title and commencement.—(1) These Rules may be called the Himachal Pradesh, Fire Services Department, Sub Fire Officer, Class-III (Non-Gazetted) Non-Ministerial Services Recruitment and Promotion Rules, 2013.

(2) These Rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. Repeal & Savings.—(1) The Himachal Pradesh Fire Services Department Sub Fire Officer (Class-III, Non-Gazetted) Recruitment and Promotion Rules 2002, notified *vide* notification No. Home- B(B)3-4/95 dated 20-09-2002 as amended from time to time are hereby repealed.

(2) Notwithstanding such repeal any appointment made or any thing done or any action taken under the relevant rules, so repealed under Rule, 2 (1) supra shall be deemed to have been validly made done or taken under these rules.

By order,
Sd/-
Addl. Chief Secretary (Home).

ANNEXURE—"A"

RECRUITMENT AND PROMOTION RULES FOR THE POST OF SUB FIRE OFFICER (CLASS-III NON-GAZETTED) IN THE DEPARTMENT OF FIRE SERVICES, HIMACHAL PRADESH

- 1. Name of the post.**— Sub Fire Officer.
- 2. Number of post.**— Thirty Two (32).
- 3. Classification.**—Class-III (Non Gazetted) (Non-Ministerial).
- 4. Scale of pay.**—(i) Pay scale for regular incumbents Rs. 10300-34800+3600 Grade Pay
(ii) Emoluments for Contract employees @ Rs. 13900/- P.M. as per details given in Col.15-A.

5. Whether Selection post or non-selection post.—Non Selection.**6. Age for direct recruitment.—**Between 18 and 45 years.

Provided that the upper age limit for direct recruits will not be applicable to the candidates already in service of the Government including those who have been appointed on *ad-hoc* or on contract basis;

Provided further that if a candidate appointed on *ad-hoc* basis had become overage on the date when he was appointed as such he shall not be eligible for any relaxation in the prescribed age limit by virtue of his such *ad-hoc* or contract appointment;

Provided further that upper age limit is relaxable for scheduled Castes/Scheduled Tribes/Other Backward categories of persons to the extent permissible under the general or special order(s) of the Himachal Pradesh Government;

Provided further that the employees of all the Public Sector Corporations and Autonomous Bodies who happened to be Government Servants before absorption in Public Sector/Corporations/Autonomous Bodies at the time of initial constitutions of such Corporations/Autonomous Bodies shall be allowed, age concession in direct recruitment as admissible to Government servants. This concession will not, however, be admissible to such staff of the Public Sector Corporations /Autonomous Bodies who were/are subsequently appointed by such Corporation/Autonomous Bodies and who are/were finally absorbed in the service of such Corporations/Autonomous Bodies after initial constitution of the Public Sector Corporation/Autonomous Bodies.

Note:—(1) Age limit for direct recruitment will be reckoned on the first day of the year in which the post(s) is/are advertised for inviting applications or notified to the Employment Exchanges or as the case may be.

(2) Age and experience in the case direct recruitment relax able at the discretion of the Recruiting Authority in case th candidate is otherwise well qualified.

7. Minimum Educational qualification and other qualification required for direct recruits.—ESSENTIAL QUALIFICATION.—(i) Should have passed 10+2 Examination or its equivalent from a recognized Board/University or should have passed Army Special Certificate and should have qualified Sub-Fire Officer course from the National Fire Services College, Nagpur.

OR

Graduate of the Institute of Fire Engineers (India), New Dehli.

(ii) Minimum Physical Standard:

Height-165 cms.

Chest-80 cms. with expansion upto 85 cms.

Eyesight-6/6 without glasses.

Weight-52 Kgs.

(iii) **Physical efficiency:—**

- (a) 100 Mtrs. Race in 15 seconds.
- (b) High Jump 120 Cms.
- (c) Broad jump 3 Mtrs.60 Cms.
- (d) 800 Mtrs. Race in 3 Minutes.

DESIRABLE :

Knowledge of customs, manners and dialect of Himachal Pradesh and suitability for appointment in the peculiar conditions prevailing in the Pradesh.

8. Whether age and educational qualifications prescribed for direct recruits will apply in the case of the promotees.—Age: No.

Educational Qualification: Yes, as prescribed against Col. No. 11 below.

9. Period of probation, if any.—Two years subject to such further extension for a period not exceeding one year as may be ordered by the competent authority in special circumstances and reasons to be recorded in writing.

10. Method of recruitment, whether by direct recruitment or by promotion, deputation, transfer and the percentage of posts to be filled in by various methods.—(i) 75% By promotion.

(ii) 25% by direct recruitment on regular basis or by recruitment on contract basis as the case may be.

The contract employees will get emoluments as given in column 15-A and will be governed by service conditions as specified in the said column.

11. In case of recruitment by promotion, deputation, transfer, grade from which promotion/ transfer is to be made.—By promotion from amongst the Leading Firemen having 3 years regular service or regular combined with continuous adhoc service rendered, if any, in the grade and should have also qualified the Sub Fire Officers Course from the National Fire Service College, Nagpur :

Provided that for the purpose of promotion every employee shall have to serve atleast one term in the Tribal/Difficult areas subject to adequate number of post(s) available in such areas:

Provided further that the proviso (I) *supra* shall not be applicable in the case of those employees who have five years or less service, left for superannuation :

Provided further that Officers/Officials who have not served atleast one tenure in Tribal/difficult area shall be transferred to such area strictly in accordance with his/her seniority in the respective cadre.

Explanation-I.—For the purpose of proviso I *supra* the “term” in Tribal/Difficult areas shall mean normally three years or less period of posting in such areas keeping in view the administrative requirements and performance of the employee.

Explanation-II.—For the purpose of proviso I *supra* the Tribal/Difficult Areas shall be as under:—

1. District Lahaul & Spiti.
2. Pangi and Bharmour Sub Division of Chamba District.
3. Dodra Kwar Area of Rohru Sub-Division.
4. Pandrah Bis Pargana, Munish Darkali and Gram panchayat Kashapat, Gram Panchayats of Rampur Tehsil of District Shimla.
5. Pandrah Bis Pargana of Kullu District.
6. Bara Bhagal Areas of Baijnath Sub Division of Kangra District.
7. District Kinnaur.
8. Kathwar and Korga Patwar Circles of Kamrau Sub Tehsil, Bhaladh Bhalona and Sangna Patwar Circles of Renukaji Tehsil and Kota Pab Patwar Circle of Shillai Tehsil, in Sirmour District.
9. Khanyol-Bagra Patwar Circle of Karsog Tehsil, Gada- Gussaini, Mathyani, Ghanyar, Thachi, Baggi, Somgad and Kholanal of Bali-Chowki Sub Tehsil, Jharwar, Kutgarh, Graman, Devgarh, Trailla, Ropa, Kathog, Silh-Badhwani, Hastpur, Ghamrehar and Bhatehar Patwar Circle of Padhar Tehsil, Chiuni, Kalipar, Mangarh, Thach-Bagra, North Magru and South Magru Patwar Circles of Thunag Tehsil and Batwara Patwar Circle of Sunder Nagar Tehsil in Mandi District.

(2) In all cases of promotion, the continuous adhoc service rendered in the feeder post if any, prior to regular appointment to the post shall be taken into account towards the length of service as prescribed in these Rules for promotion subject to the conditions that the adhoc appointment/promotion in the feeder category had been made after following proper acceptable process of selection in accordance with the provisions of R & P Rules;

(i) Provided further that in all cases where a junior person becomes eligible for consideration by virtue of his total length of service (including service rendered on adhoc basis followed by regular service/appointment) in the feeder post in view of the provisions referred to above, all persons senior to him in the respective category/post/cadre shall be deemed to be eligible for consideration and placed above the junior person in the field of consideration :

Provided that all incumbents to be considered for promotion shall possess the minimum qualifying service of at least three years or that prescribed in the Recruitment & Promotion Rules for the post, whichever is less :

Provided further that where a person becomes ineligible to be considered for promotion on account of the requirements of the preceding proviso, the persons(s) junior to him shall also be deemed to be ineligible for consideration for such promotion.

Explanation:—The last proviso shall not render the junior incumbents ineligible for consideration for promotion if the senior ineligible persons happened to be ex-serviceman recruited under the provisions of the Rule-3 of Demobilized Armed Forces Personnel (Reservation of Vacancies in the Himachal State Non-Technical Services) Rules, 1972 and having been given the benefit of seniority thereunder or recruited under the provisions of Rules-3 of the Ex-Servicemen (Reservation of vacancies in the Himachal Pradesh Technical Service) Rules, 1985 and having been given the benefit of seniority thereunder.

Note (2) Similarly, in all cases of confirmation, continuous adhoc service rendered on the feeder post if any, prior to the regular appointment against such posts shall be taken into account towards the length of service, if the adhoc appointment/promotion had been made after proper selection and in accordance with the provision of the Recruitment & Promotion Rules;

Provided that *inter-se-seniority* as a result of confirmation after taking into account, adhoc service rendered as referred to above shall remain unchanged.

12. If a Departmental Promotion Committee exists, what is its composition?—As may be constituted by the Govt. from time to time.

13. Circumstances under which the H.P. Public Service Commission to be consulted in making recruitment.—As required under the Law.

14. Essential requirement For a direct recruitment.—A candidate for appointment to any service or post must be Citizen of India.

15. Selection for appointment to post by direct recruitment.—Selection for appointment to the post in the case of direct recruitment may be made on the basis of a written test and *viva-voce* test as may be conducted by Himachal Pradesh Service Commission or any other recruiting authority as the case may be, the standard/syllabus, etc. of which, will be determined by the Commission/other recruiting authority as the case may be.

15-A Selection for appointment to the post by contract appointment.—Notwithstanding anything contained in these rules, contract appointments to the post will be made subject to the terms and conditions given below:—

(I) CONCEPT.—(a) Under this policy the Sub Fire Officer, in the Department of Fire Services, Himachal Pradesh will be engaged on contract basis initially for one year, which may be extendable on year to year basis.

Provided that for extension/renewal of contract period on year to year basis the concerned HOD shall issue a certificate that the service and conduct of the contract appointee is satisfactory during the year and only then his period of contract is to be renewed/extended.

(b) POST FALLS WITHIN THE PURVIEW OF H.P. SUBORDINATE SERVICE SELECTION BOARD:—The Director Fire Services, H.P. after obtaining the approval of the Government to fill up the vacant posts on contract basis will place the requisition with the concerned recruiting agency *i.e.* H.P. Subordinate Service Selection Board, Hamirpur.

(c) The selection will be made in accordance with the eligibility conditions prescribed in these Rules.

(II) CONTRACTUAL EMOLUMENTS.—The Sub Fire Officer appointed on contract basis will be paid consolidated fixed contractual amount @ Rs. 13900/- P.M. (which shall be equal to minimum of the pay band + grade pay). An amount of Rs.420/- (3 % of the minimum of the pay band + grade pay) as annual increase in contractual emoluments for the subsequent year(s) will be allowed if contract is extended beyond one year.

(III) APPOINTING/DISCIPLINARY AUTHORITY.—The Director Fire Services, H.P. will be appointing and disciplinary authority.

(IV) SELECTION PROCESS.—Selection for appointment to the post in the case of Contract Appointment will be made on the basis of *viva-voce* test or if considered necessary or expedient by a written test or practical test the standard/syllabus etc. of which will be determined by the concerned recruiting agency *i.e.* **H.P. Subordinate Services Selection Board Hamirpur.**

(V) COMMITTEE FOR SELECTION OF CONTRACTUAL APPOINTMENTS.—As may be constituted by the concerned recruiting agency *i.e.* the **H.P. Subordinate Service Selection Board, Hamirpur** from time to time.

(VI) AGREEMENT.—After selection of a candidate, he/she shall sign an agreement as per Annexure-‘B’ appended to these Rules.

(VII) TERMS AND CONDITIONS.—(a) The contractual appointee will be paid fixed contractual amount @ Rs. 13900/- P.M. (which shall be equal to minimum of the pay band + grade pay). The contract Appointee will be entitled for increase in contractual amount @ Rs. 420/- (3% of the minimum of pay band + grade pay) for further extended years and no other allied benefits such as senior/selection scales etc., shall be given.

(b) The service of the Contract Appointee will be purely on temporary basis. The appointment is liable to be terminated in case the performance/conduct of the contract appointee is not found satisfactory.

(c) Contractual Appointee will be entitled for one day’s casual leave after putting one month service. However, the contract employee will also be entitled for 12 weeks Maternity Leave and 10 day’s Medical Leave. He/She shall not be entitled for Medical Re-imbursement and LTC etc. No leave of any other kind except above is admissible to the contract appointee.

Provided that the un-availed Casual Leave and Medical Leave can be accumulated upto the Calendar Year and will not be carried forward for the next Calendar Year.

(d) Unauthorized absence from duty without the approval of the controlling officer shall automatically lead to the termination of the contract. Contract appointee shall not be entitled for contractual amount for the period of absence from duty.

(e) An official appointed on contract basis who have completed Three years tenure at one place of posting will be eligible for transfer on need based basis wherever required on administrative grounds.

(f) Selected candidate will have to submit a certificate of his/her fitness from a Government/Registered Medical Practitioner. Women candidates pregnant beyond 12 weeks will stand temporarily unfit till the confinement is over. The women candidate will be reexamined for the fitness from an authorized Medical Officer/ Practitioner.

(g) Contract appointee will be entitled to TA/DA if required to go on tour in connection with his/her official duties at the same rate as applicable to regular officials at the minimum of the pay scale.

(h) Provisions of service rules like FR SR, Leave Rules, GPF Rules, Pension rules & Conduct rules etc. as are applicable in case of regular employees will not be applicable in case of contract appointees. They will be entitled for emoluments etc. as detailed in this Column.

16. Reservation.—The appointment to the service shall be subject to the orders regarding reservation in the service for persons belonging to Scheduled Castes/Scheduled Tribes/Other Backward classes/categories of persons issued by the Himachal Pradesh Government from time to time.

17. Departmental Examination.—Not applicable.

18. Powers to Relax.—Where the State Govt. is of the opinion that it is necessary or expedient to do so, it may, by order for reasons to be recorded in writing and in consultation with the H.P. Public Service Commission, relax any of the provisions of these Rules with respect to any class or category of persons or posts.

ANNEXURE-‘B’

FORM OF CONTRACT/AGREEMENT TO BE EXECUTED BETWEEN THE SUB FIRE OFFICER AND THE DIRECTOR FIRE SERVICES, HIMACHAL PRADESH

This agreement is made on thisday of In the year.....BetweenSh./Smt.....S/o/D/o Shri..... R/O..... Contract appointee (hereinafter called the “FIRST PARTY”) AND THE DIRECTOR FIRE SERVICES, HIMACHAL PRADESH, SHIMLA (here-in-after the “SECOND PARTY”).

Whereas, the SECOND PARTY has engaged the “FIRST PARTY” aforesaid “FIRST PARTY” and the “FIRST PARTY” has agreed to serve as a SUB FIRE OFFICER on contract basis on the following terms and conditions:—

1. That the “FIRST PARTY” shall remain in the service of the “SECOND PARTY” as a SUB FIRE OFFICER for a period of 1 year commencing on day ofand ending on the day ofIt is specifically mentioned and agreed upon by both the parties that the contract of the FIRST PARTY with SECOND PARTY shall ipso-facto stand terminated on the last working day i.e. onand information notice shall not be necessary.

Provided that for- further extension/renewal of contract period the HOD shall issue a certificate that the service and conduct of the contract appointee was satisfactory during the year and only then the period of contract is to be renewed/extended.

2. The contractual amount of the “FIRST PARTY” will be Rs.....per month.
3. The service of “FIRST PARTY” will be purely on temporary basis. The appointment is liable to be terminated in case the performance/conduct of the contract appointee is not found good or if a regular incumbent is appointed/posted against the vacancy for which the first party was engaged on contract.
4. Contractual SUB FIRE OFFICER will be entitled for one day’s casual leave after putting in one month service. However, the contract employee will also be entitled for 12 weeks Maternity Leave and 10 day’s Medical Leave. He/She shall not be entitled

for Medical Re imbursement and LTC etc. No leave of any other kind except above is admissible to the contractual Contractual SUB FIRE OFFICER.

Provided that the un-availed Casual Leave and Medical Leave can be accumulated upto the Calendar Year and will not be carried forward for the next Calendar Year.

5. Unauthorized absence from the duty without the approval of the controlling Officer shall automatically lead to the termination of the contract. A contractual SUB FIRE OFFICER will not be entitle for contractual amount for the period of absence from duty.
6. An official appointed on contract basis who have completed Three years tenure at one place of posting will be eligible for transfer on need based basis wherever required on administrative grounds.
7. Selected candidate will have to submit a certificate of his/her fitness from a Government/Registered Medical Practitioner. In case of women candidates pregnant beyond twelve weeks will render of temporary unfit till the confinement is over. The women candidate should have re-examined for fitness from an authorized Medical Officer/ Practitioner.
8. Contract appointee shall be entitled to TA/DA if required to go on tour in connection with his/her official duties at the same rate as applicable to regular counter-part official at the minimum of pay scale.
9. The Employees Group Insurance Scheme as well as EPF/GPF will not be applicable to contractual appointee(s).

IN WITNESS THE FIRST PARTY AND SECOND PARTY have here in to set their hands the day month and year first, above written.

IN THE PRESENCE OF WITNESS:

1. _____

(Name and full Address) (Signature of the FIRST PARTY)
 2. _____

(Name and full Address)
- IN THE PRESENCE OF WITNESS (Signature of the SECOND PARTY)
- _____

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 28th December, 2013

No. Sharm (A) 7-1/2005-Part File-1.—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment of the Government of Himachal Pradesh:—

Sr. No.	Case No: August, 2013	Title of the Case	Date of Award
1.	129/2010	Shri Manoj Kumar V/s M/a Aar Aar Casting Ltd. Solan.	26-11-2013
2.	44/2012	M/S Shivani Singh V/s Ex. Director-cum Secy. Dagshai School, Solan.	08-11-2013
3.	55/2008	Shri Mohinder Singh V/s Manager Sauth Asia Bervieries (P) Ltd. Sirmour.	25-11-2013
4.	127/2010	Shri Tej Singh V/s Controller Printing & Stationery Deptt. Shimla.	26-11-2013
5.	82/2009	Shri Narinder Kumar V/s Principal Govt. P.G. College, Solan.	26-11-2013

By order,
Sd/-

Pr. Secretary (Labour & Employment).

IN THE COURT OF A.S. JASWAL, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Reference no. 129 of 2010.

Instituted on 4.12.2010.

Decided on 26.11.2013.

Manoj Kumar S/o Shri Ram Dhan R/o Village Batayal, P.O Bhamla, Tehsil Sarkaghat, District Mandi, HP. *.Petitioner.*

V/S.

The Factory Manager, M/s Aar Aar Casting Ltd., (Near Power House) Village Jharmajri, P.O Barotiwala, District Solan, HP. *.Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri J.C. Bhardwaj, AR

For respondent: Shri Mohit Thakur, Advocate.

AWARD

The reference, for adjudication, is as under: **“Whether verbal termination of the services of Shri Manoj Kumar S/o Shri Ram Dhan driver by the Management of M/s Aar Aar Casting Ltd. (near power house), Village Jharmajri, P.O Barotiwala, District Solan, HP w.e.f. 30.4.2009, without serving chargesheet, without holding enquiry and without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what back wages, service benefits and relief the above named workman is entitled to?”**

2. The contention of the petitioner is that he was engaged as Driver by the respondent during the month of March, 2005 and continued to remain, as such till 30.4.2009, when his services

were illegally terminated by the respondent. Since, the respondent had failed to comply with the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as Act) and further that in every calendar year, he had been working for more than 240 days, his services could not have been terminated in violation of the provisions of the Act. Apart from this, neither he had been afforded any opportunity nor paid termination benefits.

3. On having raised various preliminary objections including maintainability, the respondent has also contested the claim of the petitioner by asserting that on 17.9.2008, while on duty, at Shimla, on Truck No. HP 12-C 6379, the petitioner, along-with his conductor, left the Truck, on road, with the result, the Truck was stolen and in this regard FIR was got lodged. When the matter was being enquired into by the Police, the petitioner left the job, without intimation to the respondent. However, he again rejoined his duties on 1.4.2009 but again left the same on 30.4.2009, without any reason. Thus, his services were not terminated by the respondent but the petitioner on his own, left the job. Other allegations denied.

4. Pleadings of the parties gave rise to the following issues which were struck off on 31.12.2011.

1. Whether the termination of the services of the petitioner by the respondent *w.e.f.* 30.4.2009, is in violation of the provisions of the Industrial Disputes Act, 1947? . . . *OPP.*

2. If issue no.1 is proved in affirmative, to what relief the petitioner is entitled to? . . . *OPP.*

3. Relief.

5. Besides having heard the Ld. AR for the petitioner and Ld. Counsel for respondent I have also gone through the record of the case carefully.

6. For the reason to the recorded hereinafter, my findings on the aforesaid issues are as under:

Issue no. 1 No.

Issue no. 2 Becomes redundant.

Relief: Reference answered against the petitioner per operative part of award.

Reason for findings

Issue no. 1.

7. As per the petitioner, his services, as driver, had been terminated by the respondent *w.e.f.* 30.4.2009, in violation of the provisions of the Act. On the other hand, the defence plea is to this effect that on his own, he had left the job. Although, the petitioner has averred that he had been working for 240 days in each calendar year, including twelve calendar months preceding the date on which his services were terminated, but in support of such plea, he has neither examined himself nor any other witness. In these circumstances, for want of evidence, he has failed to prove that his services had been illegally terminated in violation of the provisions of the Act. Here, I may like to point-out that since, the petitioner has failed to lead evidence, the respondent did not lead evidence in support of its reply.

8. Consequently, for what has been stated above and also that the petitioner has failed to lead evidence, in support of his case, I have been left with no other alternative but to decide this issue against him which accordingly is decided in negative.

9. For the failure of the petitioner to have proved issue no.1, this issue becomes redundant.

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is dismissed with the result, the reference is answered against him and in favour of the petitioner. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this 26th day of November, 2013.

(A.S. JASWAL)
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

Ref.44 of 2012
8-11.2013

Ms. Shivani Singh *V/s* Ex. Director-cum-Secy. Dagshai Public School, Solan 8.11.2013:-

Present:- None
Sh V. K. Gupta AR for respondent.
No PWs is Present, Be awaited upon.

Sd/-
Presiding Judge
Labour Court, Shimla.

Case Called again

8.11.2013:-
Present:- None for the petitioner.
Sh. V. K. Gupta AR for respondent.

For today, this case is fixed for the evidence of the petitioner, at self responsibility for the failure of the petitioner to appear before this court as witness & also to produce other evidence & further that her Advocate is not present, clearly goes to show that the petitioner is not interested to prosecute this case. In these circumstances, I have been left with no other alternative but to observe that in the absence of sustentative evidence having been led by the petitioner, this reference is required to be decided against her. Accordingly, I decide this reference against the petitioner & in Favour of respondent. File, after completion, be consigned to records.

Announced

8.11.2013

Sd/
Presiding Judge
Labour Court, Shimla.

Sh. Mahinder Singh V/s Manager South Asia Breweries (P) Ltd. Sirmour.

25.11.2013:-

Present:- Ms. Veena Sood , Ado for the petitioner.
Shri Surender Kaushal, Ado for respondent.

Shri Chanan Singh Special Attorney of Shri Mehender Singh, petitioner also present. He has filed special power of Attorney executed in his favour by Shri Mahender Singh (Petitioner) It has been stated by both the parties that consequent upon the efforts put in by this Court, a Compromise/settlement has been effected. As per the compromise/ settlement, so arrived at between the parties, the respondent has agreed to pay Rs.1,85,000/- (Rs. One lakh eighty five thousand only) to the petitioner by way of full & final settlement of his claim, involved in this case. Shri Chanan Singh, Special Attorney of the petitioner has stated that the amount, aforesaid, being purposed to be given to the petitioner by way of full & final settlement, is acceptable to him. I am satisfied that a lawful compromise/settlement has been effected between the parties.

Resultantly, regarding the settlement/Compromise, so effected, the statements of Shri Surender Kaushal, Advocate for respondent and also that of Shri Chanan Singh, Special Attorney of the petitioner recorded separately. Consequent upon the compromise/settlement, effected between the parties, this reference stands disposed of/answered accordingly. The statements of Shri Surender Kaushal, Advocate and Shri Chanan Singh, Special Attorney of the petitioner, shall form part and parcel of this award/order. Let a copy of this award/order be sent to the appropriate government for publication in the official gazette. Be consigned to records.

Announced:

25.11.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

**IN THE COURT OF A.S. JASWAL, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Ref no. 127 of 2010.
Instituted on 4.12.2010.
Decided on 26.11.2013.

Tej Singh Kanwar (Driver) S/o Shri Hem Singh, R/o Village & P.O. Basantpur, Tehsil
Sunni, District Shimla, H.P. *.Petitioner.*

Vs.

The Controller, Printing & Stationary Department, Ghora Chowki, Shimla-5, H.P.
.Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri Rajesh Vats, Advocate

For respondent: Ms. Manu Kalia, Ld. ADA.

AWARD

The reference for adjudication, is as under:—

"Whether termination of the services of Shri Tej Singh Kanwar (Driver) S/o Shri Hem Singh by Controller, Printing & Stationery Department Ghora Chowki, Shimla-5, HP vide order dated 31.3.2006, without serving chargesheet, without holding enquiry and without complying the mandatory provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what back wages, service benefits and relief the above named workman is entitled to?"

2. Briefly, the case of the petitioner is that in the year 1999, he was initially engaged as driver on daily wages basis by the respondent and worked with utmost sincerity and honesty. In each calendar year, he had been completing 240 days. As per the policy, formulated by the State of H.P., his services were required to be regularized on having completed eight years of service, putting minimum 240 days in every calendar year. In order to deny him regularization in service, the respondent, illegally terminated his services in violation of the mandatory provisions of Industrial Disputes Act, 1947. In fact, he had fallen ill and accordingly intimated the respondent in this regard. A letter dated 24.1.2006, which had been written by the respondent, in English, could not be understood by him as per which, he had been informed to submit the medical record, on joining. Barring one letter, he did not receive any other letter. The respondent also did not serve upon him the illegal termination order. It has further averred that his services had been illegally terminated without serving chargesheet and holding any enquiry and also to have complied with the mandatory provisions of the Act. Against this backdrop, a prayer has been made for setting aside his illegal termination order and to reinstate him with all consequential service benefits including back wages and seniority.

3. The petition has been contested on having raised preliminary objection qua maintainability. On merits, it has been asserted that the petitioner had been initially engaged by the respondent on daily wages as driver in the year, 1999 and he joined the department on 6.2.1999. Till January, 2006, he kept on working as driver with the respondent with a break in service, *w.e.f.* 4.9.2004 to 28.11.2004, as per letter dated 4.9.2004. It has been denied that his services had been illegally terminated. As a matter of fact, an application dated 2.1.2006, had been submitted by the petitioner wherein it was stated that he was not feeling well and for this reason, could not attend his duties and thus requested to grant him medical leave till joining. In response to this application, a memo dated 24.1.2006, was issued to him as per which, he was informed that in public interest, his leave, on medical grounds, could not be granted and further, he was directed to appear before Chief Medical Officer, Shimla for medical examination, if he was ill. Since, there was no response/communication from the petitioner, to the said memo, he was issued another memo dated 24.2.2006 whereby, he was directed either to join his duties by 1st Match, 2006, or to appear before Chief Medical Officer, Shimla for examination, if he was ill and further directed that in case, the needful was not done, he was deemed to have been terminated from service and in his place, a new appointment was to be made in the interest of department. It is averred that in response to memo dated 24.1.2006, the petitioner submitted an application, dated 16.2.2006, which was received by the respondent on 23.2.2006, in which it was stated that he was still ill and may be treated absent from duty on medical ground and further that on getting recovered from illness, he was to join duties by submitting medical certificate. Since, he (petitioner) did not comply with the directions of the department or joined his duties till 31.3.2006, his services were rightly terminated, on 31.3.2006, vide order P&S. 3/99-Satha-6386-87, dated 31.3.2006. It has been denied that the petitioner had completed eight years of service. In fact, he completed seven years of service during the period from 1999 to 2005 with minimum 240 days in each calendar year. Thus, the policy regarding regularization of services is not applicable to him. It is further averred that from his

initial engagement till termination of his services, the petitioner had put more than 240 days in all preceding calendar years. Other allegations either admitted or denied.

4. The pleadings of the parties gave rise to the following issues which were struck on 28.9.2011.

1. Whether the termination of services of the petitioner by the respondent with effect from 31.3.2006, is in violation of the provisions of the Industrial Disputes Act, 1947?
..OPP.
2. If issue no.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to?
..OPP.
3. Relief.

5. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no. 1 Yes.

Issue no. 2 **Entitled to reinstatement in service with seniority and continuity.**

Relief. Reference answered in favour of the petitioner, per operative part of award.

Reasons for findings

Issue no.1&2

7. Being interlinked, both these issues are taken up together for discussion and decision.

8. The contention of the petitioner is that his services had been terminated *w.e.f.* 31.3.2006, in illegal and unjustified manner, in violation of the provisions of the Act as well as without serving any chargesheet or holding enquiry. On the other hand, the defence version is to this effect that since, the petitioner had failed to comply with memos dated 24.1.2006 as well as 24.2.2006, his services were rightly terminated in legal manner because he had failed to comply with the directions mentioned in those memos.

9. Admittedly, the petitioner had remained in continuous service of the respondent *w.e.f.* 6.2.1999 till he absented himself on medical grounds, except the break in service *w.e.f.* 4.9.2004 to 28.11.2004. When regard is given to the stand taken by the respondent, it can be said that the services of the petitioner had not been retrenched within the meaning of section 200 (c). Now, the question arises as to whether the respondent was to initiate enquiry against the petitioner for not having complied with the directions as mentioned in memos dated 24.1.2006 and also that of 24.2.2006. It has been urged by Ld. Dy. DA that since in the memo dated 24.2.2006, a specific direction had been issued to the petitioner either to join duties by 1st March, 2006 or to appear before C.M.O. Shimla, for medical examination and further that in the said memo, it had been stated that if the needful was not done, his services were deemed to have been terminated, for this reason, there was no need to have initiated enquiry against the petitioner. On the other hand, the submission which has been advanced on behalf of the petitioner is to this effect that since, the

petitioner had allegedly disobeyed the directions as mentioned in the aforesaid memos, his such act amounted to misconduct and for this reason, a reasonable opportunity should have been afforded to him to explain his conduct and further it was obligatory upon the respondent to have initiated enquiry against him for such misconduct.

10. The petitioner, when appeared in to the witness box, as PW-1, supported the facts as stated in the statement of claim filed by him on, all material counts including that to the department, he had informed regarding his illness as per application dated 2.1.2006, which is Ex. PW-1/B. He had also received a letter Ex. PW-1/C from the department. Except this letter, no other letter had been received by him from the department. In the cross-examination, he admitted that as per Ex. PW-1/C, he had been asked to appear before Chief Medical Officer, Shimla for medical check-up/examination. He denied that the department had also written him letter/memo dated 24.2.2006. He expressed his lack of knowledge that the department had directed him to either join duties by 1.3.2006, or to appear before Chief Medical Officer, Shimla for examination, failing which his services were deemed to have been terminated. He admitted that on 16.2.2006, he had submitted an application, Ex. RA, for extension of leave. He admitted that memo Ex. RB, had been sent to him through post.

11. From the evidence of the petitioner, it is quite clear that *vide* application dated 2.1.2006, Ex. PW-1/B, he had informed the department that he was ill and for this reason, unable to attend the office. It has been admitted by him to have received letter/memo dated 24.1.2006, Ex. PW-1/C from the department. When regard is given to letter Ex. RA of the petitioner, it is highlighted that in response to letter dated 24.1.2006 of the department, he had made an application/request that on account of his illness, he was unable to attend the office and for this reason, he should be allowed to remain absent, on medical grounds, and further that when he would recover from illness, he would join the duties. This goes to show that the petitioner had informed the respondent/department that on account of his illness, he was unable to join the office and for this reason, either he should be granted medical leave or allowed to remain absent, on medical grounds. He, (petitioner) in his affidavit, has denied to have received memo dated 24.2.2006.

12. Ex. RA-1 is the affidavit of Shri Sher Singh (RW-1), in which it has been stated that in response to the application dated 2.1.2006 of the petitioner, a memo dated 24.1.2006, had been issued to him as per which, he was directed to appear before the Chief Medical Officer, Shimla for medical examination, if he was ill because his request for leave, on medical grounds, could not have been accepted in public interest. Since, no communication had been received from the petitioner, qua memo dated 24.1.2006, another memo dated 24.2.2006, was issued to him whereby he was directed to join the duties by 1.3.2006 or to appear before Chief Medical Officer, Shimla for medical examination, failing which, his services were deemed to have been terminated. An application dated 16.2.2006, which had been submitted by the petitioner, in response to memo dated 24.1.2006, had been received in the office on 23.2.2006. Since, the petitioner had failed to comply with the memos and also to join duties, his services were legally terminated. In the cross examination, he has stated that before terminating the services of the petitioner, no enquiry was got conducted. He explained that notices had been issued to the petitioner for joining duties but he failed to do the needful. He denied that the petitioner had not been afforded opportunity to put-forth his version and his services were terminated without hearing.

13. From the evidence which has been referred to above, it is clear that *vide* letter dated 2.1.2006, Ex. PW-1/B, the petitioner had informed the department/respondent that for his being ill, he was unable to attend the office and for this reason, he be granted medical leave. It is true that as per memo dated 24.1.2006, Ex. PW-1/C, the petitioner had been informed that his request for medical leave could not be accepted due to public interest and that he was also directed to appear before Chief Medical Officer, Shimla for medical examination, but on that score, it cannot be said that he had rendered himself for action to be taken against him for not complying with the

directions to appear before Chief Medical Officer, Shimla. Here, it is to be mentioned that in response to memo dated 24.1.2006 Ex. PW-1/C, the petitioner, vide letter Ex. RA, had informed the department that he was unable to appear in the office, on account of his illness and further requested that during the period he remained ill, he be allowed to remain absent on medical grounds. This letter had been issued on 16.2.2006. It is true that the department had issued another memo dated 24.2.2006, Ex. RB to the petitioner whereby he had been directed either to join duties by 1.3.2006, or to appear before Chief Medical Officer, Shimla and further that if he failed to do the needful, his services shall be deemed to have been terminated, but on the basis of this memo (Ex. RB), it cannot be said that the department had followed the principles of natural justice before terminating the services of the petitioner, *vide* office order dated 31.3.2006, Ex. PW-1/D.

14. It has been rightly argued by the learned Counsel for the petitioner that if the petitioner had failed to comply with the orders/directions of the department, as contained in memo Ex. RB, his such action was to amount a misconduct. On the basis of such misconduct, the department should have issued a show cause notice to the petitioner as to why his services be not terminated for not having complied with the directions, issued vide memo Ex. RB dated 24.2.2006. At least, an enquiry was required to be conducted as to whether the absence of the petitioner was necessitated on account of his illness or whether, it was the result of willful absent. In my view, it was not justified on the part of the department/respondent, to have terminated the services of the petitioner, vide office order dated 31.3.2006, Ex. PW-1/D, for his failure to have complied with the directions, stated therein. Here, it is also to be noted that as far as memo dated 24.2.2006, Ex. RB is concerned, the petitioner has denied to have received it. In order to prove this memo, which had been sent to the petitioner through registered post, RW-1 Shri Sher Singh has testified, in his affidavit Ex. RA 1, that on the record, postal receipt has also been filed which is mark X but the respondent has not examined the postman who had delivered the registered letter containing memo Ex. RB, to the petitioner. Thus, the delivery of memo Ex. RB to the petitioner cannot be said to have been proved in accordance with law particularly, when it has been denied by the petitioner to have received the same in his petition. It has been urged on behalf of the respondent that the petitioner had been issued memos/notices dated 24.1.2006 and 24.2.2006, before terminating his services but the issuance of such notices/memos did not absolve the respondent to have complied with the principles of natural justice which required that before terminating the services of the petitioner, he was required to be given show cause notice and if the reply to the same had not been found satisfactory, to initiate enquiry against him.

15. It has been held by the **Apex Court in CMD Vs. Praveen Kumar Jain and others (1998) 9 SCC 468**, that the termination of services of a daily wager, working for past twenty years and borne on muster roll was illegal whereby he was informed that his services were not required *w.e.f.* the specific date and when neither section 25-F of the Industrial Disputes Act was complied with nor the procedure of departmental enquiry followed before passing the said order.

16. In the instant case, the respondent/department has neither complied with the provisions of section 25-F of the Act nor followed the procedure of departmental enquiry before terminating the services of the petitioner, vide office order dated 31.3.2006. I agree with the Ld. Counsel for the petitioner that for the failure of the department/respondent to have either complied with the provisions of section 25-F of the Act or to have initiated enquiry against the petitioner, his termination cannot be said to be legal and justified.

17. Consequently, for what has been stated and observed above, I hold that the termination of the services of the petitioner *w.e.f.* 31.3.2006, is illegal and unjustified for being in violation of the provisions of the Act.

18. Now, it is to be seen that what service benefits, the petitioner is entitled to. Before this Court, the petitioner has not brought the medical records, in order to show that during the period, he

remained absent from duties, he was ill. In number of judgments of Hon'ble Apex Court, it has been held that in the event of reinstatement of a worker, the grant of back wages is not automatic. ***The Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla*** has ruled that ***“full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry”***.

19. In the instant case, the petitioner had been working as daily wager since 6.2.1999, before he absented himself from duties on account of alleged illness. Having regard to all the facts and circumstances, I am of the view that he deserves to be reinstated in service with seniority and continuity but without back wages. Thus, both these issues are decided in favour of the petitioner and against the respondent.

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is allowed and the petitioner is ordered to be reinstated in service with seniority and continuity but without back wages. Consequently, the reference stands answered in favour of petitioner and against the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 26th November, 2013.

(A.S. JASWAL)
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

IN THE COURT OF A.S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Ref no. 82 of 2009.
Instituted on 29.10.2009.
Decided on 26.11.2013

Narinder Kumar S/o Shri Sunehra Singh R/o Ward No. 7, Dhobi Ghat Solan, Tehsil & District Solan, HP. . .*Petitioner.*

Vs.

The Principal Government Post Graduate College, Solan, Rajgarh Road, District Solan, HP. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri J.C. Bhardwaj, AR.

For respondent: Ms. Manu Kalia, ADA.

AWARD

The reference for adjudication, is as under:—

"Whether verbal termination of Shri Narinder Kumar S/o Sunehra Singh daily wages sweeper w.e.f. 10.10.2007 by the Principal Govt. Post Graduate College Solan Rajgarh Road District Solan, HP without complying with various provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what back wages, seniority, service benefits and relief the aggrieved worker is entitled to?"

2. Facts of the case, in brief, are that in the month of December, 2001, the petitioner was appointed as Chowkidar in Government Post Graduate College, Solan (hereinafter referred as College) by its principal and continued to remain as such till 31.12.2003. Thereafter, during the year, 2004, he was shifted from the work of Chowkidar, in order to attend to the work of Sweeper (Safai Karamchhari) where he continued to remain working till 10.10.2007, when his services were illegally terminated, orally, by the Principal without complying with the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act) and also the Employment Standings Orders, 1946. In each calendar year, he had worked for more than 240 days including twelve calendar months preceding his termination. Since, neither he was served with notice nor paid retrenchment compensation and further that his juniors were retained in service, his termination is liable to be set aside for being in violation of the provisions of the Act. Against this backdrop, a prayer has been made to reinstate him with seniority and continuity, in service, alongwith consequential service benefits including back wages.

3. The petition has been contested on having raised preliminary objections including cause of action and that the petitioner did not approach this Court with clean hands. On merits, it has been asserted that in fact, the petitioner had been engaged purely on daily wages in the month of April, 2002 as Chowkidar and not in the month of December, 2001, as alleged. It has been denied that during the year, 2004, he was shifted from the work of Chowkidar to that of Sweeper. It is further averred that he had not been regular in attending his duties and was in the habit of remaining absent from work without informing/intimating the College authorities. During the period w.e.f. December, 2003 to July, 2004, he had remained absent from work. The respondent had even received many complaints against his conduct and work in writing from the officials of the Hostel as well as students. Regarding his such behavior, he had been warned with the direction to mend his behavior. It is asserted that he (petitioner) had abandoned his service. It has been denied that he had worked for more than 240 days in each calendar year or even twelve calendar months preceding his voluntarily abandonment of the work. Since, he had abandoned his work, without prior intimation to the authorities concerned, there was no occasion for serving any notice to him or to pay retrenchment compensation. It has been specifically denied that his services were terminated orally on 10.10.2007.

4. By filing rejoinder, the petitioner has reaffirmed his own allegations by denying those of the respondent.

5. The pleadings of the parties gave rise to the following issues which were struck on 2.7.2010.

1. Whether the services of the petitioner have been terminated illegally and in an unjustified manner in contravention of the provisions of Industrial Disputes Act, 1947 as alleged? . . .OPP.
2. Whether the petitioner has not approached this Court with clean hands? If so, its effect? . . .OPR.
3. Relief.

6. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue no. 1 Yes.

Issue no. 2 No.

Relief. Reference answered in favoaur of the petitioner, per operative part of award.

Reasons for findings

Issue no.1

8. For the petitioner, it has been urged that since, his services had been terminated, orally, on 10.10.2007, without serving notice or paying retrenchment compensation, the same is liable to be set aside for being in violation of the provisions of the Act especially section 25-F. On the other hand, it has been submitted on behalf of the respondent that the services of the petitioner had not been terminated on 10.10.2007. In fact, he had abandoned his job without intimating the college authorities and for this reason there was no occasion for paying him retrenchment compensation or to issue notice. It has further been urged that the work and conduct of the petitioner was not above board and that he was also in the habit of remaining absent. For his such conduct, he had also been warned consequent upon the written complaints received from the officials of the Hostel as well as students.

9. While appearing in the witness box as PW-1, the petitioner has supported all the facts, as narrated, in the petition including that in the month of December, 2001, he had been engaged as Chowkidar and remained as such till 31.3.2003. Thereafter, *w.e.f.* 1.1.2004, he was shifted to the work of Safai karamchari and in that capacity, continued to work till 10.10.2007, when his services were terminated without notice and compensation. He had not abandoned the job. The details of his working days are Ex. PA to Ex. PA-5. Vide Ex. PA, he had worked for 257 days during the year 2007, preceding his termination. Since, his services had been terminated, illegally, he deserves to be reinstated with all consequential service benefits including back wages. In the cross examination, he stated that he has not produced any appointment letter and also the duty chart pertaining to the period from December, 2001 to April, 2002. He denied that he was engaged during the month of April, 2002. He further denied that on 1.1.2004, he was not working with the respondent. When confronted with Ex. PA-3, his absence was found *w.e.f.* Jan. to July, 2004. He expressed his lack of knowledge that he had started working from April, 2002 or not. He denied that there had been many complaints against him, received from college authorities, and that he abandoned his job.

10. Smt. Manjusha Pathania (RW-1), in her affidavit, has stated that in the month of April, 2002, the petitioner had been engaged purely on daily wages basis, as stop gap arrangement, and worked till 2007. During the period December, 2003 to July, 2004, he had remained willfully absent from the work without intimating the college authorities. He had voluntarily abandoned the job from October, 2007. For this reason, there was no occasion for the respondent to have served any notice upon him or to pay retrenchment compensation. No junior to the petitioner has been retained who was engaged after April, 2002. The services of the petitioner had not been terminated orally on 10.10.2007. Since, the work of the petitioner was not above board, many complaints had been received against him from college authorities and in order to mend his behavior, he had been warned. The complaints which had been received against him are Ex. RA to Ex. RH. In the cross examination, she stated that in their college there is no post of Safai karamchari. She denied that the petitioner was not habitual absentee and that against him a false story has been manipulated. They

had not called for his explanation, in writing, about his habitual defaults. She denied that complaint Ex. RA to Ex. RH, are forged. When, the petitioner allegedly, abandoned the job, they did not enter into any communication with him. No enquiry had been conducted against the petitioner.

11. Ex. PA is the duty chart, which has been relied upon by the petitioner. Its perusal goes to show that he had been in service of the College *w.e.f.* April, 2002 as Chowkidar. The contention of the respondent is also to this effect that in the month of April, 2002, he (petitioner) had been engaged, on daily wages, as stop gap arrangement. Thus, the plea of the petitioner that he was engaged as chowkidar in the month of December, 2001, gets falsified.

12. It has been specifically stated by the petitioner (PW-1) that on 10.10.2007, his services had been terminated without notice and compensation. He has also relied upon Ex. PA-5, the detail of his working days. The perusal of Ex. PA-5, goes to show that in the year, 2007, till October, he had worked for 257 days. According to him, his services had been illegally terminated on 10.10.2007. From this document, Ex. PA-5, it is quite clear that he had put in more than 240 days *i.e.* 257 in the year, 2007, before his services were allegedly illegally terminated, by the respondent, on 10.10.2007. Since, he succeeds in showing that in the year, 2007, before his termination, he had worked for more than 240 days, the respondent was under obligation to have complied with the requirements of section 25-F of the Act. **In 2005-III-LLJ 52, General Manager Haryana Roadways Vs. Rudhan Singh**, it has been held by the Hon'ble Supreme Court that if a workman had worked for 240 days in period of 12 months, it is not necessary for him to have been in service for one complete year.

13. In the instant case, from Ex. PA-5, it stands proved that from Jan., to October, 2007, the petitioner had completed 257 days. Although, the defence version is to this effect that the petitioner had voluntarily abandoned his job and for this reason, there was no occasion for the respondent to have issued him notice or to pay him retrenchment compensation but this plea of the respondent cannot be said to be a good defence. Even if, it is presumed that the petitioner had abandoned his job on 10.10.2007, it was required of the respondent to have issued him some letter in order to join his duties. In the evidence of Smt. Manjusha Pathaniya (RW-1), it has come that the respondent had not entered into any communication with the petitioner when he allegedly left the job. It has been held by the **Hon'ble Supreme Court in M/s Scooters India Ltd. Vs. M Mohammad Yaqub, 2001 LLR 54** that even when a workman fails to report for duties, the management cannot presume that the workman left the job despite being called upon to report failing which his name will be removed from the rolls. It has further been held that when workman remained absent and failed to report for duties, it was imperative to follow the principles of natural justice by giving him opportunity.

14. In the instant case, if it is presumed that the petitioner had abandoned the job *w.e.f.* 10.10.2007, even then it was imperative upon the respondent to have given him opportunity to explain his position. In this way, for the failure of the respondent to have afforded him opportunity of being heard and further that he was not issued any notice as required under the Act or paid retrenchment compensation, the alleged termination of the petitioner *w.e.f.* 10.10.2007, cannot be said to be justified as per the provisions of the Act.

15. The petitioner had also assailed his termination to be illegal on the plea that his juniors have been retained in service. I may mention that the petitioner has failed to bring, on record, any document which could go to show that the persons junior to him are still in job of the respondent. It has been categorically stated by Smt. Manjusha Pathania (RW-1), in her affidavit, that no person junior to the petitioner, who was engaged after April, 2002, has been retained by the respondent. Thus, the petitioner fails to prove that his alleged termination of services is also in violation of section 25-G & H of the Act.

16. For the failure of the respondent to have complied with the provisions of section 25-F of the Act, the termination/retrenchment of the petitioner *w.e.f.* 10.10.2007, is held to be illegal and unjustified.

17. Now, it is to be seen as to what service benefits, the petitioner is entitled to. In number of judgments of Hon'ble Apex Court, it has been held that in the event of reinstatement of a worker, the grant of back wages is not automatic. *The Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla has ruled that "full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry".*

18. In the instant case, the petitioner had been working as daily wager since April, 2002 and his services had been allegedly terminated/retrenched *w.e.f.* 10.10.2007. Having regard to all the facts and circumstances, I am of the view that he deserves to be reinstated in service with seniority and continuity but without back wages. Thus, issue no. 1 is decided in favour of the petitioner and against the respondent.

Issue no.2

18. When regard is given to the evidence of Smt. Manjusha Pathaniya (RW-1), it is not proved that the petitioner has not approached this court with clean hands. Undoubtedly, the petitioner has alleged that he was appointed, at first instance, as Chowkidar during the month of December, 2001 but from his document, Ex. PA-1, it is revealed that he was engaged/appointed in the month of April, 2002. On that score, it cannot be said that he has not come before the Court with clean hands. The controversy in this case is whether the alleged termination of the petitioner *w.e.f.* 10.10.2007, is against the provisions of the Act or not. As far as such alleged termination is concerned, the petitioner has not made any concealment which could go to show that he has not approached the Court with clean hands.

19. Consequently, for what has been stated and observed above, I hold that the respondent has failed to prove this issue to which my answer is in negative.

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is allowed and the petitioner is ordered to be reinstated in service forthwith with seniority and continuity but without back wages. Consequently, the reference stands answered in favour of petitioner and against the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 26th November, 2013.

(A.S. JASWAL)
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 28th December, 2013

No. Sharm (A) 7-1/2005-Part File-1.—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court

Shimla on the website of the Department of Labour & Employment of the Government of Himachal Pradesh:—

Sl. No.	Case No. August, 2013	Title of the Case	Date of Award
1.	64/2012	Employees union V/s Xen, HPPWD Paonta Sahib	30-10-2013
2.	78/2010	Smt. Saroj V/s M/s V. N. Contractors Parwanoo	28-10-2013
3.	79/2010	Smt. Kalpna V/s -do-	28-10-2013

By order,

Sd/-

Pr. Secretary (Labour & Employment).

IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA CAMP AT NAHAN

Ref. No. 64 of 2012
Instituted on 3.12.2012
Decided on 30.10.2013

The Himachal PWDIPH Employees Union (Regd.) HP., Head Office Fey Lodge, Cart
Road, Bus Stand Shimla-171001 . . . *Petitioner.*

Versus

The Executive Engineer, HPPWD (B&R) Division Paonta Sahib, District Sirmour, H.P.
. . . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : None.

For respondent: Shri Jagdish Kanwar, Ld. Dy. DA.

AWARD

The reference for adjudication is as under:

“Whether demand of Himachal P.W.D.I.P.H Employees Union (Regd.) HP Head Office, Fey Lodge, Cart Road, Bus Stand Shimla, 171001 before the Executive Engineer, HPPWD (B&R) Division, Paonta Sahib, District Sirmour, HP to regularise the services of Shri Khem Raj, beldar, HPPWD Sub Division No.1 Paonta *w.e.f.* 1-1-2004, instead of year, 2007 vide demand notice dated 12.8.2010 (copy enclosed) with all consequential service benefits is legal and justified? If yes, what relief of service benefits, seniority, monetary benefits, the above affected workman is entitled to?”

2. Consequent upon the receipt of reference, in this Court, notices were issued to the parties and Shri Khem Raj, AR appeared for the petitioner whereas Shri Jagdish Kanwar, Ld. Dy. DA for the respondent. Although, opportunities were afforded to the petitioner to file statement of claim but the same was not filed. Be it stated that on 20.9.2013, when the case was fixed for filing of statement of claim, Shri Khem Raj AR for the petitioner failed to appear. Despite his having not

appeared, the case was fixed for 30.10.2013, so that Shri Khem Raj, AR for the petitioner could appear before this Court and file statement of claim. Even, having done so, on the fixed date *i.e.* 30.10.2013, neither Khem Raj AR, appeared before this Court nor statement of claim was filed. Thus, I proceed to decide this reference on the basis of material which is available before this Court.

3. The reference pertains to the demand of P.W.D.I.P.H Employees Union (regd.) HP, to regularise the services of Shri Khem Raj, beldar HPPWD Sub-Divison No.1 Paonta *w.e.f.* 1.1.2004, instead of year, 2007, *vide* demand notice dated 12.8.2010, to be legal and justified. This goes to show that Shri Khem Raj (Beldar) asserts that his services were required to be regularized *w.e.f.* 1.4.2004, instead of the year, 2007 and that he was also entitled for all consequential service benefits. In other words, it can be said that according to Shri Khem Raj (Beldar), his regularization, in service, from the year, 2007, is illegal and unjustified because he was to be regularized *w.e.f.* 1-1-2004.

4. It is to be mentioned that despite having been afforded opportunities, Shri Khem Raj did not file statement of claim. If he had filed statement of claim, only then it could have been alleged by him that his regularization, in service, from the year, 2007, is illegal and unjustified because the needful was required to be done from 1-1-2004. When the petitioner has failed to file statement of claim and further to join proceedings before this Court, there is no material on record, whatsoever, which could go to show that he was required to be regularized, in service, *w.e.f.* 1-1-2004 and not in the year, 2007, as was done. Thus, for the failure of the petitioner to have putforth his case, as per the reference, made to this Court by the appropriate government, it is required to be decided against him and accordingly, the same is decided against him and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today this day of 30th October, 2013.

(A. S. JASWAL),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla
Camp at Nahan.

Ref. 78/2010

Smt. Saroj *v/s* m/s V.N. contractor, Parwanoo 28-10-2013.

Present: Shri J. C. Bhardwaj, A.R for petitioners.
Ms. Rosy Atoria, assistant manager (Human Resources) Mahle filter system India Ltd.
Parwanoo with Shri Ankush Sharma, Advocate vice Csl. for respondent.

It has been stated by Ms. Rosy Atoria that a settlement has already been effected between the parties. She further made it clear that settlement, so arrived at between the parties, was also got registered with Labour Inspector, Parwanoo.

As per my previous order dated 3-10-2013, parties had been directed to be produced before this court. Despite that order, petitioner (Smt. Kalpana), is not present.

For what has been stated before this court by Ms. Rosy Atoria, I feel satisfied that a settlement has already been effected between the parties. I may observe that had it been not so, the

petitioner, in all probability, was to appear before this court in order to state her version that no such alleged settlement has taken place between the parties.

Thus, I proceed to record the statement of Ms. Rosy Atoria, which is recorded accordingly.

In view of the statement made by Ms. Rosy Atoria, this reference stands answered in terms of copy of settlement Ex. RA which shall form part and parcel of this order/award. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced: 28/10/2013.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Ref. 79 of 2010.

Smt. Kalpana v/s m/s V.N. contractor, Parwanoo 28-10-2013.

Present: Shri J.C. Bhardwaj, A.R for petitioners.
Ms. Rosy Atoria, assistant manager (Human Resources) Mahle filter system India Ltd.
Parwanoo with Shri Ankush Sharma, Advocate vice Csl for respondent.

It has been stated by Ms. Rosy Atoria that a settlement has already been effected between the parties. She further made it clear that settlement, so arrived at between the parties, was also got registered with labour inspector, Parwanoo.

As per my previous order dated 3-10-2013, parties had been directed to be produced before this court. Despite that order, petitioner (Smt. Kalpana), is not present.

For what has been stated before this court by Ms. Rosy Atoria, I feel satisfied that a settlement has already been effected between the parties. I may observe that had it been not so, the petitioner, in all probability, was to appear before this court in order to state her version that no such alleged settlement has taken place between the parties.

Thus, I proceed to record the statement of Ms. Rosy Atoria, which is recorded accordingly.

In view of the statement made by Ms. Rosy Atoria, this reference stands answered in terms of copy of settlement Ex. RA which shall form part and parcel of this order/award. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced: 28/10/2013.

Sd/-
Presiding Judge,
Labour Court, Shimla

LOCAL AUDIT DEPARTMENT**NOTIFICATION***Dated : 27th December, 2013*

No.1-255/74-Fin (LA) Vol-8-8467.—On the recommendation of the Departmental Promotion Committee, the Governor, Himachal Pradesh is pleased to promote S/Shri Des Raj Chauhan, Chandresh Handa, Ashok Sood, and Hem Raj Bharadwaj, Section Officers of Local Audit Department, Himachal Pradesh (Class-II-Gazetted) presently working in the Pay Band of Rs.10300-34800+ 5000 Grade Pay to the post of Assistant Director/Assistant Controller (Class-I-Gazetted) in the Pay Band of Rs. 15600-39100+5400 Grade Pay with immediate effect.

Consequent upon the above promotions these officers are posted as under against vacant posts:

Sr. No.	Name of the Officer	Posted at
1.	Shri Des Raj Chauhan	Headquarter Office, Shimla
2.	Shri Chandresh Handa	Audit of various institutions with Headquarter at Shimla.
3.	Shri Ashok Sood	Audit of various institutions with Headquarter at Shimla.
4.	Shri Hem Raj Bharadwaj	Audit of various institutions with Headquarter at Shimla.

The above officers may submit their option for fixation of pay under Rule F.R.22 (I) (a) (i) within one month from the date of issue of this notification.

They will remain on probation for a period of two years/ upto the date of their retirement whichever is earlier.

By order,
Sd/-
Principal Secretary (Finance).

LOCAL AUDIT DEPARTMENT**NOTIFICATION***Dated : the 27th December, 2013*

No.1-315/76-Fin (LA) Vol-9-8449.—On the recommendation of the Departmental Promotion Committee, the Governor, Himachal Pradesh is pleased to promote S/Shri Brejinder Mohan Puri and Vipul Kumar Sood, Junior Auditors of Local Audit Department, Himachal Pradesh (Class-III-Non-Gazetted) presently working in the Pay Band of Rs.10300-34800 +3800 Grade Pay to the post of Section Officer (Class-II-Gazetted) in the Pay Band of Rs. 10300-34800 + 5000 Grade Pay with immediate effect.

Consequent upon the above promotions these officers are posted as under:

Sr. No.	Name of the Officer	Posted at
1.	Shri Brejinder Mohan Puri	Headquarter Office, Shimla against the post to be vacated by Shri Des Raj Chauhan, Section Officer on promotion as Assistant Director.
2.	Shri Vipul Kumar Sood	Audit Circle, Mandi against vacant post

These officers will remain on probation for a period of two years and may submit their option for fixation of pay under Rule F.R.22 (I) (a) (i) within one month from the date of issue of this notification.

By order,
Sd/-
Principal Secretary (Finance).

LOCAL AUDIT DEPARTMENT

NOTIFICATION

Shimla-171009, the 31st December, 2013

No. 1-41/68--Fin (LA)-Vol-2-8567.—In continuation of this office Notification of even No. dated 05-06-2012 and as a result of promotion of Shri Des Raj Chauhan, Section Officer, Local Audit Department, Himachal Pradesh to the post of Assistant Director the designation Shri Des Raj Chauhan may now be read as Assistant Director for the purpose of Drawing and Disbursing powers for the Heads of Accounts indicated in the aforesaid notification.

By order,
Sd/-
*Special Secretary (Finance)-cum-
Director, Local Audit Department,
Himachal Pradesh, Shimla-9.*

